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## BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP - CHAIRMAN  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

Arizona Corporation Commission

DOCKETED

JUN 13 2014

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AZ CORP COMMISSION  
DOCKET CONTROL

2014 JUN 13 PM 3 05

ORIGINAL

IN THE MATTER OF THE APPLICATION OF  
THE ARIZONA DEPARTMENT OF  
TRANSPORTATION TO UPGRADE AN  
EXISTING CROSSING OF THE  
BURLINGTON NORTHERN AND SANTA FE  
RAILWAY COMPANY AT THE  
INTERSECTION OF SR 303L AND US 60,  
MARICOPA COUNTY, ARIZONA, AT MP  
167.77

DOCKET NO. RR-02635B-14-0158

STAFF MOTION TO VACATE  
SCHEDULED HEARING

On May 13, 2014, the Arizona Department of Transportation ("ADOT") filed an application to grant Burlington Northern & Santa Fe Railway Company ("Railroad" or "BNSF") authority to perform construction work on the State Route 303 Freeway. The portion of the freeway for which the application was made crosses over the US 60 Freeway and a segment of BNSF track and, as the application notes, is already grade separated. It was approved as a grade separated crossing by Decision No. 62699 (June 30, 2000). Due to the grade separation, representatives of ADOT have discussed with Arizona Corporation Commission ("Commission") Safety Division Staff ("Staff") whether the application requires an evidentiary hearing. Staff believes that the present application does not require an evidentiary hearing and that sufficient information can be provided by way of the application and Staff Report that will be docketed for the Hearing Division to produce a recommended opinion and order to resolve the matter.

A.R.S. § 40-337 grants the Commission authority to approve the creation of new railroad-public highway crossings as well as to alter or abolish existing crossings. Staff would further note that A.R.S. § 40-337 contains no express requirement for an evidentiary hearing. In contrast, A.R.S. §40-337.01 does require an evidentiary hearing in the event the application involves the use of

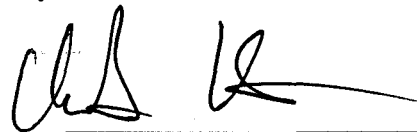
1 automatic safety devices at a crossing. As the present application regards an existing grade  
2 separation and does not involve the installation or modification of automatic safety signals, A.R.S.  
3 §40-337.01 is inapplicable.

4 Staff would further note that as the crossing is already grade separated, it will be factually less  
5 complicated than at-grade crossing applications. For instance, much of the typical Staff analysis of  
6 an at-grade crossing is devoted to applying the crossing exposure index factors to the circumstances  
7 of the crossing. However, the purpose of the crossing exposure index is to determine the suitability  
8 of a crossing for grade separation. Given that this crossing is already grade separated, the crossing  
9 exposure analysis is unnecessary.

10 As the hearing has not yet been noticed, vacating the hearing and determining this matter  
11 based solely on the filings would cause no undue burden or additional process. Moreover,  
12 proceeding without a hearing in this matter would serve the interests of judicial economy, saving time  
13 and resources for ADOT, Staff and for the Hearing Division.

14 For all the above reasons, Staff moves for determination of this matter on the filings and to  
15 vacate the hearing.

16 RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of June, 2014.

17  
18 

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26 Original and thirteen (13) copies of  
27 the foregoing filed this 13<sup>th</sup> day of  
28 June, 2014, with:

26 Docket Control  
27 Arizona Corporation Commission  
28 1200 West Washington Street  
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Copy of the foregoing mailed this  
13<sup>th</sup> day of June, 2014, to:

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*Cephalopoda*